

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF PUERTO RICO**

3
4 **USA,**

5 **Plaintiff,**

6 **v.**

7 **CRIM. NO. 12-286 (GAG)**

8 **KENNY TORRES-COLON,**

9 **Defendant.**

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11
12 **ORDER**

13
14 Defendant's Motion for Judgment of Acquittal and New Trial (Docket No. 146) is **DENIED**.

15 The Court shall address each argument seriatim.

- 16 1. The Court previously ruled that Section 922(G)(1) is constitutional. (See Docket No.
17 149.)
- 18 2. The Court rejected at trial from the bench Defendant's tampering argument. Based
19 on the totality of the circumstances, the Court finds that the PRPD agents acted
20 reasonably in collecting the evidence at a time when forensic personnel were not
21 readily available. Also, the evidence was close to Coco Ward, a high crime area.
22 Also, the agents did not act in bad-faith in collecting evidence thrown -i.e.,
23 abandoned- from the passing vehicle.
- 24 3. Reference to the plea agreement was properly presented as the co-defendant himself
25 accepted the matters therein.
- 26 4. There was no Confrontation Clause violation. The expert himself testified about the
27 interstate/foreign commerce nexus. He also, based on personal expert knowledge,

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2 concluded where it was manufactured.

3 5. Defendant's Rule 29 challenge fails on the aforementioned grounds. Also, the
evidence was sufficient to go to the trier of fact.

4 6. The government's comment in rebuttal came as a result of Defendant's own
5 comment. Defendant has requested transcript and can renew if necessary, the motion
6 with specific citations to the transcript.

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8 **SO ORDERED.**

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10 In San Juan, Puerto Rico this 15th day of October, 2013.

11 *s/ Gustavo A. Gelpí*

12 GUSTAVO A. GELPI
13 United States District Judge

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